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United States. Any such general agent of the Secretary of Commerce is considered a legal entity in his capacity as such general agent, separate and distinct from his identity as a person employing individuals on his own account. Each such general agent who in his capacity as such qualifies as an employer under section 3306(a) is with respect to each calendar year for which he so qualifies subject to the tax imposed by section 3301, and to all the requirements imposed upon an employer as defined in section 3306(a) by the regulations in this part, with respect to services which constitute employment by reason of section 3306(n) and this section of the regulations.

§ 31.3306(p)–1 Employees of related corporations.

(a) *In general.* For purposes of sections 3301, 3302, and 3306(b)(1), when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual (unless the disbursing corporation fails to remit the taxes due). Paragraphs (b) and (c) of § 31.3121(s)–1 contain rules defining related corporations, common paymasters, and concurrent employment, and rules for determining the liability of the other related corporations for employment taxes if the common paymaster fails to remit the taxes pursuant to sections 3102 and 3111, and for allocating these taxes among the related corporations. Those rules also apply to the tax under section 3301. For purposes of applying those rules to this section, references in those rules to section 3111 are considered references to sections 3301 and 3302, and references to section 3121 are considered references to section 3306.

(b) *Allocation of credit for contributions to State unemployment funds.* A special rule for applying the rules of § 31.3121(s)–1 to this section applies if it is necessary to determine the ultimate liability of each related corporation for which services are performed in the event the common paymaster fails to remit the tax to the Internal Revenue Service. In determining the ultimate liability of a corporation, the credit for contributions to State unemployment funds that the corporation may claim under section 3302 is calculated as if each corporation were a separate employer.

(c) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

[T.D. 7660, 44 FR 75142, Dec. 19, 1979]

§ 31.3306(r)(2)–1 Treatment of amounts deferred under certain nonqualified deferred compensation plans.

(a) *In general.* Section 3306(r)(2) provides a special timing rule for the tax imposed by section 3301 with respect to any amount deferred under a nonqualified deferred compensation plan. Section 31.3121(v)(2)–1 contains rules relating to when amounts deferred under certain nonqualified deferred compensation plans are wages for purposes of sections 3121(v)(2), 3101, and 3111. The rules in § 31.3121(v)(2)–1 also apply to the special timing rule of section 3306(r)(2). For purposes of applying the rules in § 31.3121(v)(2)–1 to section 3306(r)(2) and this paragraph (a), references to the Federal Insurance Contributions Act are considered references to the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.), references to FICA are considered references to FUTA, references to section 3101 or 3111 are considered references to section 3301, references to section 3121(v)(2) are considered references to section 3306(r)(2), references to section 3121(a), (a)(5), and (a)(13) are considered references to section 3306(b), (b)(5), and (b)(10), respectively, and references to § 31.3121(a)–2(a) are considered references to § 31.3301–4.

(b) *Effective dates and transition rules.* Except as otherwise provided, section 3306(r)(2) applies to remuneration paid after December 31, 1984. Section 31.3121(v)(2)–2 contains effective date rules for certain remuneration paid after December 31, 1983, for purposes of section 3121(v)(2). The rules in § 31.3121(v)(2)–2 also apply to section 3306(r)(2). For purposes of applying the rules in § 31.3121(v)(2)–2 to section

3306(r)(2) and this paragraph (b), references to section 3121(v)(2) are considered references to section 3306(r)(2), and references to section 3121(a)(2), (a)(3), or (a)(13) are considered references to section 3306(b)(2), (b)(3), or (b)(10), respectively. In addition, references to §31.3121(v)(2)–1 are considered references to paragraph (a) of this section. For purposes of applying the rules of §31.3121(v)(2)–2 to this paragraph (b)—

(1) References to ''December 31, 1983'' are considered references to ''December 31, 1984'';

(2) References to ''before 1984'' are considered references to ''before 1985'';

(3) References to ''Federal Insurance Contributions Act'' are considered references to ''Federal Unemployment Tax Act''; and

(4) References to ''FICA'' are considered references to ''FUTA''.

[64 FR 4541, Jan. 29, 1999]

§31.3307–1 Deductions by an employer from remuneration of an employee.

Any amount deducted by an employer from the remuneration of an employee is considered to be a part of the employee's remuneration and is considered to be paid to the employee as remuneration at the time that the deduction is made. It is immaterial that any act of Congress or the law of any State requires or permits such deductions and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

§31.3308–1 Instrumentalities of the United States specifically exempted from tax imposed by section 3301.

Section 3308 makes ineffectual as to the tax imposed by section 3301 (with respect to remuneration paid after 1961 for services performed after 1961) those provisions of law which grant to an instrumentality of the United States an exemption from taxation, unless such provisions grant a specific exemption from the tax imposed by section 3301 by an express reference to such section or the corresponding section of prior law. Thus, the general exceptions from Federal taxation granted by various statutes to certain instrumentalities of the United States without specific reference to the tax imposed by section 3301 or the corresponding section of prior law are rendered inoperative insofar as such exemptions relate to the tax imposed by section 3301. For provisions relating to the exception from employment of services performed in the employ of an instrumentality of the United States specifically exempted from the tax imposed by section 3301, see §31.3306(c)(6)–1.

[T.D. 6658, 28 FR 6641, June 27, 1963]

Subpart E—Collection of Income Tax at Source

§31.3401(a)–1 Wages.

(a) *In general.* (1) The term ''wages'' means all remuneration for services performed by an employee for his employer unless specifically excepted under section 3401(a) or excepted under section 3402(e).

(2) The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales or on insurance premiums, pensions, and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employee for his employer.

(3) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

(4) Generally the medium in which remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as for example, stocks, bonds, or other forms of property. (See, however, §31.3401(a)(11)–1, relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business, and §31.3401(a)(16)–1, relating to the exclusion from wages of tips paid in any medium other than cash.) If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be